

**SENATE . . . . . No. 611**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act Relative to Funding Public Institutions of Higher Education ..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. (a) Section 9 of chapter 15A of the general laws, as appearing in the 2006  
2 Official Edition, is hereby amended by striking out the third paragraph.

3 (b) Section 22 of said chapter 15A, as so appearing, is hereby amended by inserting after  
4 the first paragraph the following: -

5 The board of trustees of each state and community college shall, for each academic year  
6 beginning on or after July 1, 2009, fix and establish tuition and fee rates for each college. In-  
7 state tuition rates for the college shall preserve affordability for residents of the commonwealth.  
8 Out-of-state tuition rates shall appropriately balance the financial needs of the college with the  
9 need to be competitive with peer institutions regionally and nationwide

10 For each academic year beginning on or after July 1, 2009, all tuition and fees received  
11 by a state or community college shall be retained by the board of trustees of each state or  
12 community college in a revolving trust fund or funds and shall be expended by the board of  
13 trustees of the state or community college. Every such trust fund shall be established in

14 accordance with and subject to the requirements of section 14 of chapter 73 of the general laws  
15 Any balance remaining in the trust fund or funds at the end of the fiscal year shall continue to be  
16 held in said trust fund or funds, shall remain available for expenditure in subsequent fiscal years,  
17 and shall not revert to the general fund. All such trust funds shall be subject to audit by the state  
18 auditor.

19 Notwithstanding any general or special law to the contrary, unless the state appropriation  
20 is less than the previous fiscal year's appropriation, the rate of increase for in-state tuition and  
21 general fees shall not exceed the 3-year average of the consumer price index for Massachusetts  
22 (CPI). Each college may request a higher rate of increase within parameters and procedures set  
23 by the board of higher education, in conjunction with the presidents of the state and community  
24 colleges and upon the approval of the board of higher education. In determining approval, the  
25 board shall take into consideration the overall well-being of the institution, the quality of the  
26 academic programs, multiple years of underfunding of the institutions, any 9C cuts, so-called,  
27 that may have been instituted, and the additional financial burden on the student population of  
28 the institutions. Should the state appropriation be less than the previous fiscal year  
29 appropriation, the institutions shall first utilize not less than 25% of the combined total of their  
30 unrestricted reserve funds, including the student charges stabilization fund established pursuant  
31 to this act. For the purposes of this section, unrestricted reserves shall not include funds from  
32 auxiliary enterprise activities, grants and contracts, continuing education programs, gifts or plant  
33 funds. Following this, should their funding level still fall short of the previous year's  
34 appropriation, the institutions may increase student charges to attain the level of the previous  
35 fiscal year's appropriation plus the 3 year average of the consumer price index.

36           Insofar as is practicable, the final rates of student charges shall be established for the  
37 subsequent academic year no later than 15 days prior to the deadline for submission of state and  
38 federal financial aid applications by students attending institutions of higher education.

39           For employees of any state or community college who, after July 1, 2009, are paid from  
40 tuition retained pursuant to this section, fringe benefits shall be funded as if those employees'  
41 salaries were supported by state appropriations. This paragraph shall apply only to fringe  
42 benefits associated with salaries paid from tuition retained by the board of trustees of a state or  
43 community college as a direct result of the authority granted by the preceding paragraph of this  
44 section.

45           Notwithstanding the provisions of this section to the contrary, the board of trustees of a  
46 state or community college may fix and establish a tuition rate and charges reduction for  
47 residents of bordering states to not less than 1 and ½ times the institution's in-state tuition and  
48 fee rates, if it determines that the institution is below enrollment capacity and the projected cost  
49 to the institution and the commonwealth of the reduction would be minimal when taking into  
50 account the projected enrollment growth associated with such an adjustment. The board of  
51 trustees shall seek reciprocal arrangements from bordering states where no such tuition reduction  
52 is available for residents of the commonwealth.

53           (c) Section 1A of chapter 75 of the general laws, as so appearing, is hereby amended by  
54 striking out clause (p) in the fifth paragraph and inserting in place thereof, the following clause: -

55           (p) to fix and establish tuition rates of said university and to retain such tuition in  
56 accordance with this section

57 (d) Said section 1A of said chapter 75, as so appearing, is hereby further amended by  
58 inserting after the fifth paragraph the following: -

59 The board of trustees shall, for each academic year beginning on or after July 1, 2009, fix  
60 and establish tuition and fee rates for the university. In-state tuition rates shall preserve  
61 affordability for residents of the commonwealth. Out-of-state tuition rates shall appropriately  
62 balance the financial needs of the university with the need to be competitive with peer  
63 institutions regionally and nationwide.

64 For each academic year beginning on or after July 1, 2009, all tuition and fees received  
65 by the university shall be retained by the board of trustees in a revolving trust fund or funds and  
66 all be expended as the board of trustees may direct for the operation and support of the  
67 university. Each such trust fund shall be established with and subject to the requirements of  
68 section 11. Any balance in said trust fund or funds at the end of the fiscal year shall continue to  
69 be held in said trust fund or funds, shall remain available for expenditure in subsequent fiscal  
70 years, and shall not revert to the general fund. Any such trust funds shall be subject to audit by  
71 the state auditor.

72 Notwithstanding any general or special law to the contrary, unless the state appropriation  
73 is less than the previous fiscal year's appropriation, the rate of increase for in-state tuition and  
74 general fees shall not exceed the 3-year average of the consumer price index for Massachusetts  
75 (CPI). The university may request a higher rate of increase within parameters and procedures set  
76 by the secretary of education, in conjunction with the board of trustees of the university and the  
77 president of the university and upon the approval of the secretary of education. In determining  
78 approval, the secretary shall take into consideration the overall well-being of the institution, the

79 quality of the academic programs, multiple years of underfunding of the institutions, any 9C  
80 cuts, so-called, that may have been instituted, and the additional financial burden on the student  
81 population of the institution. Should the state appropriation be less than the previous fiscal year  
82 appropriation, the university shall first utilize not less than 25% of the combined total of their  
83 unrestricted reserve funds, including the student charges stabilization fund established pursuant  
84 to this act. For the purposes of this section, unrestricted reserves shall not include funds from  
85 auxiliary enterprise activities, grants and contracts, continuing education programs, gifts or plant  
86 funds. Following this, should their funding level still fall short of the previous year's  
87 appropriation, the institutions may increase student charges to attain the level of the previous  
88 fiscal year's appropriation plus the 3 year average of the consumer price index.

89         Insofar as is practicable, the final rates of student charges shall be established for the  
90 subsequent academic year no later than 15 days prior to the deadline for the submission of state  
91 and federal financial aid applications by students attending institutions of higher education as set  
92 forth in section 5.

93         For employees of the university who, after July 1, 2009, are paid from tuition retained  
94 pursuant to this section, fringe benefits shall be funded as if those employees' salaries were  
95 supported by state appropriations. This paragraph shall apply only to fringe benefits associated  
96 with salaries paid from tuition retained by the board of trustees as a direct result of the authority  
97 granted by the preceding paragraph of this section.

98         Notwithstanding the provisions of this section to the contrary, the board of trustees of the  
99 university may fix and establish a tuition rate and charges reduction for residents of bordering  
100 states to not less than 1 and ½ times the institution's in-state tuition and fee rates if it determines

101 that the institution is below enrollment capacity and the projected cost to the institution and the  
102 commonwealth of the reduction would be minimal when taking into account the projected  
103 enrollment growth associated with such adjustment. The board of trustees shall seek reciprocal  
104 arrangements from bordering states where no such tuition reduction is available for residents of  
105 Massachusetts.

106 (d) Said chapter 15A is hereby amended by adding, after section 41, the following  
107 section: -

108 Section 42. (a) Notwithstanding any general or special law to the contrary, each  
109 community college, each state college and the university of Massachusetts shall create at the  
110 institution a reserve fund, hereinafter referred to as the “student charges stabilization fund”, for  
111 their respective institution. There shall be deposited annually into the student charges  
112 stabilization fund of each institution the following: (1) any moneys which, within 60 days  
113 following the end of the fiscal year, the institution certifies to the state comptroller are moneys  
114 that were appropriated to the institution for that fiscal year and that were not expended during,  
115 and remain unencumbered for expenditure in respect of, that fiscal year; provided, that  
116 notwithstanding any general or special law to the contrary, all such moneys shall remain  
117 available for expenditure, without further appropriation, in subsequent fiscal years and shall not  
118 revert to the General Fund; and provided further that the state comptroller shall transfer any such  
119 moneys remaining in the state treasury to the institution within 30 days of receipt of the  
120 institution’s certification; (2) moneys that are appropriated to an institution which are required by  
121 the legislature to be deposited into the institutions student charges stabilization fund; and (3)  
122 other moneys that an institution may elect to deposit into its student charges stabilization fund,

123 including student tuition and fee revenue. Student charges stabilization fund moneys shall be  
124 deposited in an interest bearing account credited to its respective institution.

125 (b) Each institution shall deposit 5 per cent of any growth in state appropriation and  
126 tuition and fees from the prior year into their student charges stabilization fund.

127 (c) The board of trustees at each community college, state college and the university may,  
128 in a fiscal year and upon the vote of the board, expend moneys in its student charges stabilization  
129 fund whenever in any such fiscal year the moneys made available to the institution do not meet  
130 the commonwealth's annual full funding obligations with respect to the operating requirements  
131 of the institution set forth in section 1. Among the uses as the boards of trustees of each state or  
132 community college or the university, shall direct for the operation and support of the institution,  
133 the moneys shall first be used to reduce the need for increases in tuition and fees and to mitigate  
134 such increases should they become necessary.

135 (e) Section 19 of chapter 15A, as so appearing, is hereby amended by inserting after the  
136 second paragraph the following: -

137 The commonwealth shall bear the cost of providing any waivers granted under this  
138 section; provided further, that institutions shall not be required, on a year to year basis to grant  
139 waivers of a total value greater than those granted during the 2007 academic year.

140 (f) Notwithstanding the provisions of this section to the contrary, the Massachusetts  
141 College of Art and Design and the Massachusetts Maritime Academy shall be governed by  
142 section 25 of chapter 45 of the acts of 2005.

143           (g) The secretary of education shall undertake a review of the tuition retention program  
144 not later than July 1, 2014. Within said review, the secretary shall make any recommendations  
145 as to legislative changes to the program, including but not limited to, the repeal of said program.